



Leicester
City Council

LICENSING ENFORCEMENT SUB-COMMITTEE

DATE: TUESDAY, 12 OCTOBER 2021

TIME: 10:00 am

PLACE: Meeting Room G.01, Ground Floor, City Hall, 115 Charles Street, Leicester, LE1 1FZ

Members of the Sub-Committee

Councillors Byrne, Fonseca, Shelton and Westley

One Non-Group Vacancy

Members of the Sub-Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for Monitoring Officer

Officer contact: Angie Smith
Democratic Support, Leicester City Council
City Hall, 115 Charles Street, Leicester, LE1 1FZ
Tel: 0116 454 6354
email: angie.smith@leicester.gov.uk

Information for members of the public.

Attending meetings and access to information

You have the right to attend formal meetings such as full Council, committee meetings, and Scrutiny Commissions and see copies of agendas and minutes.

However, on occasion, meetings may, for reasons set out in law, need to consider some items in private.

Due to COVID restrictions, public access in person is limited to ensure social distancing. We would encourage you to view the meeting online but if you wish to attend in person, you are required to contact the Democratic Support Officer in advance of the meeting regarding arrangements for public attendance. A guide to attending public meetings can be found here: (Insert link to new content on website when available)

Members of the public can follow a live stream of the meeting on the Council's website at this link: <http://www.leicester.public-i.tv/core/portal/webcasts>

Dates of meetings and copies of public agendas and minutes are available on the Council's website at www.cabinet.leicester.gov.uk, or by contacting us using the details below.

To hold this meeting in as Covid-safe a way as possible, all attendees are asked to follow current Government guidance and:

- maintain distancing while entering and leaving the room/building;
- remain seated and maintain distancing between seats during the meeting;
- wear face coverings throughout the meeting unless speaking or exempt;
- make use of the hand sanitiser available;
- when moving about the building to follow signs about traffic flows, lift capacities etc;
- comply with Test and Trace requirements by scanning the QR code at the entrance to the building and/or giving their name and contact details at reception prior to the meeting;
- if you are displaying Coronavirus symptoms: a high temperature; a new, continuous cough; or a loss or change to your sense of smell or taste, you should NOT attend the meeting, please stay at home, and get a PCR test.

Making meetings accessible to all

Wheelchair access – Public meeting rooms at the City Hall are accessible to wheelchair users. Wheelchair access to City Hall is from the middle entrance door on Charles Street - press the plate on the right hand side of the door to open the door automatically.

Braille/audio tape/translation - If you require this please contact the Democratic Support Officer (production times will depend upon equipment/facility availability).

Induction loops - There are induction loop facilities in City Hall meeting rooms. Please speak to the Democratic Support Officer using the details below.

Filming and Recording the Meeting - The Council is committed to transparency and supports efforts to record and share reports of proceedings of public meetings through a variety of means, including social media. In accordance with government regulations and the Council's policy, persons and press attending any meeting of the Council open to the public (except

Licensing Sub Committees and where the public have been formally excluded) are allowed to record and/or report all or part of that meeting. Details of the Council's policy are available at www.leicester.gov.uk or from Democratic Support.

If you intend to film or make an audio recording of a meeting you are asked to notify the relevant Democratic Support Officer in advance of the meeting to ensure that participants can be notified in advance and consideration given to practicalities such as allocating appropriate space in the public gallery etc..

The aim of the Regulations and of the Council's policy is to encourage public interest and engagement so in recording or reporting on proceedings members of the public are asked:

- ✓ to respect the right of others to view and hear debates without interruption;
- ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
- ✓ where filming, to only focus on those people actively participating in the meeting;
- ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.

Further information

If you have any queries about any of the above or the business to be discussed, please contact Angie Smith, Democratic Support on **(0116) 454 6354** or email angie.smith@leicester.gov.uk

For Press Enquiries - please phone the **Communications Unit on 0116 454 4151**

LEICESTER CITY COUNCIL LICENSING SUB-COMMITTEE PROCEDURAL GUIDE

INTRODUCTORY PHASE

The meeting will be held in public unless stated otherwise in the report.

Present at the hearing will be Members of the Licensing Sub-Committee (minimum 3 Members), Officers from the Licensing Authority, a Legal Adviser to the Sub-Committee, an Officer from Democratic Services.

1. Participants at the meeting will introduce themselves as follows:
 - a. Members and Officers
 - b. Statutory Consultees (if any)
 - c. The Applicant and any representatives
 - d. Persons who have made representations
2. The Chair will check that the Applicant has received a copy of the Officer report.

INFORMATION GATHERING

3. The Licensing Officer presents the report (previously circulated)

Questions (for clarification purposes only):
Members
Statutory Consultees (if any)
Persons who have made representations
Applicant and Representative (s)
4. Depending on the nature of the report, Statutory Consultees present their comments.

Questions (for clarification purposes only):
Members
Officers
Persons who have made representations
Applicant and Representative(s)
5. Persons who have made representations

Questions (for clarification purposes only):
Members
Officers
Statutory Consultees (is any)
Applicant and Representative(s)
6. Applicant's Case

Questions (for clarification purposes only):
Members
Officers
Statutory Consultees
Persons who have made representations

7. Summing up in the following order

Officers
Statutory Consultees
Persons who have made representations
Applicant and Representative(s)

8. The Legal Adviser to the Sub-Committee to advise the Sub-Committee in the presence of the Applicant, Representatives, Officers, Statutory Consultees, and persons who have made representations on relevant issues the Members need to be aware of when they come to make their decision.

DECISION MAKING

9. Apart from the Sub-Committee Members and the Democratic Support Officer everyone will be asked to withdraw from the meeting The Legal Adviser to the Sub-Committee may be called back to the meeting to advise on the wording of the decision the Sub-Committee Members will have made during private deliberation.

The Applicant will be advised that the decision made by the Sub-Committee will be made public within 5 working days of the meeting.

PUBLIC SESSION

AGENDA

FIRE / EMERGENCY EVACUATION

If the emergency alarm sounds, you must evacuate the building immediately by the nearest available fire exit and proceed to the area outside the Ramada Encore Hotel on Charles Street as directed by Democratic Services staff. Further instructions will then be given.

- 1. APPOINTMENT OF CHAIR**
- 2. APOLOGIES FOR ABSENCE**
- 3. DECLARATIONS OF INTEREST**

Members are asked to declare any interests they may have in the business to be discussed.

- 4. MINUTES OF PREVIOUS MEETING**

Appendix A

The minutes of the meeting of the Licensing Enforcement Sub-Committee held on 3 August 2021 are attached, and Members will be asked to confirm them as a correct record.

- 5. PRIVATE SESSION**

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

Under the law, the Sub-Committee is entitled to consider certain items in private where in the circumstances the public interest in maintaining the matter exempt from publication outweighs the public interest in disclosing the information. Members of the public will be asked to leave the meeting when such items are discussed.

The Sub-Committee is recommended to consider the following reports in private on the grounds that they contain 'exempt' information as defined by the Local Government (Access to Information) Act 1985, as amended, and consequently that the Sub-Committee makes the following resolution:-

“that the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because they involve the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act, and taking all the circumstances into account, it is

considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.”

Paragraph 1

Information relating to an individual.

Paragraph 3

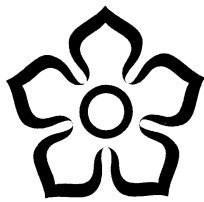
Information relating to the financial or business affairs of any particular person (including the authority).

B1) APPLICATION FOR A SCRAP METAL DEALER'S LICENCE

6. APPLICATION FOR A SCRAP METAL DEALER'S LICENCE **Appendix B1**

The Director of Neighbourhood and Environmental Services submits a report.

7. ANY OTHER URGENT BUSINESS



Leicester
City Council

Appendix A

Minutes of the Meeting of the LICENSING ENFORCEMENT SUB-COMMITTEE

Held: TUESDAY, 3 AUGUST 2021 at 10:00 am

P R E S E N T:

Councillor Pickering (Chair)

Councillor Cank

Councillor Shelton

* * * * *

1. APPOINTMENT OF CHAIR

Councillor Pickering was appointed as Chair for the meeting.

2. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Govind.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meetings of the Licensing Enforcement Sub-Committee held 4 May and 2 July 2021 are confirmed as a correct record.

5. PRIVATE SESSION

RESOLVED:

That the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act, and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to any individual

Paragraph 2

Information which is likely to reveal the identity of an individual

Paragraph 3

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Paragraph 7

Information relating to the any action taken or to be taken in connection with the prevention, investigation, or prosecution of crime.

B1) Application for a Hackney Carriage and Private Hire Vehicle Driver's Licence.

6. APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S LICENCE

Introductions were made and the Chair outlined the procedure of the meeting to those present.

The Director of Neighbourhood and Environmental Services submitted a report on an application for a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The applicant was present, the Licensing Team Manager, and the Legal Adviser to the Sub-Committee were also present.

The Licensing Team Manager outlined details of the application, including the relevant City Council Policy Guidelines.

The Licence Holder was invited to set out the reasons why he ought to be granted the Licence and answered questions from Members and Officers.

All parties were given the opportunity to sum up and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present.

The Chair announced that the decision and reasons made during private deliberation would be publicly announced in writing within five working days. The Chair informed the meeting the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Chair then asked all but Members of the Sub-Committee and Democratic

Support Officers to leave the meeting. The Sub-Committee then deliberated in private to consider their decision.

The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of the decision.

RESOLVED:

That the application for the grant of a Hackney Carriage and Private Hire Vehicle Driver's Licence be REFUSED.

Members had carefully considered the Sub-Committee Report placed before them. Members had taken account, where appropriate, of the Department for Transport's "Statutory Taxi & Private Hire Vehicle Standards", the Regulators' Code and the Council's "Guidelines for Licensing Hackney Carriage and Private Hire Vehicle Drivers". Members had taken account of the oral and written representations.

Members of the Sub-Committee had to determine a matter related to an application for the grant of Hackney Carriage and Private Hire Drivers Licence by the applicant.

The application for a driver's licence was commenced on 31st May 2018 and completed on 30th January 2020 however there had been a substantial delay in the application being referred to the Sub-Committee for determination.

The reasons for referral to the Sub-Committee related to the behaviour of the applicant at a knowledge test on 24th April 2019 and his behaviour towards officers after that date.

The report before Sub-Committee, together with the statement at Appendix A to the report set out that on 24th April 2019 a Licensing Officer witnessed the applicant using his mobile phone whilst undertaking a knowledge test. This was despite being instructed not to use his phone whilst undertaking the test. When the phone was confiscated, the Licensing Officer noticed that a map application was open and had been used to assist with the test. After the test was completed, the applicant begged the Licensing Officer to pass him and made inappropriate comments to her. When the Licensing Officer informed the applicant that he had failed because he had not reached the required pass mark and because he had cheated, the applicant continued to beg the Licensing Officer to pass him and offered to come to an arrangement if she passed him. The Licensing Officer informed the applicant that she would not alter the mark and that the applicant would have to re-apply for a knowledge test.

Subsequently, the applicant re-took the knowledge test on 3rd July 2019 and passed it.

On 16th July 2019, the applicant was informed by email that he would need to complete the remainder of the application process but that he would be referred to Sub-Committee due to his behaviour on 24th April 2019.

On 17th July 2019 the applicant telephoned the Licensing Manager who reported that he was shouting and aggressive during the conversation. She stated that the applicant was demanding an apology because everything was lies.

In June 2021, the applicant contacted the Licensing Team to check on the progress of his application. When informed that the matter was being referred to Sub-Committee, it was reported that the applicant became aggressive and agitated. He told the Licensing Manager that everything that was being alleged against him was lies.

Before the Sub-Committee, the applicant stated that it was all a misunderstanding and the situation on the day was not helped because of his grasp of English. He stated that there was no guidance offered to applicants undertaking the knowledge test and that one question on the paper was confusing, so he had called the Licensing Officer over and asked for her help, at which point the Licensing Officer had told him that he had to 'sort it out' himself. He thought that this was unfair and therefore used his mobile phone which was beside him to check the information on the written paper and laminated map. During questioning before the Sub-Committee, the applicant accepted that his phone had been confiscated after the Licensing Officer had witnessed him using the phone and that after he had been informed that he had failed he had asked the Licensing Officer to sort it out, meaning the incorrect question and he denied that he offered to come to some arrangement. He accepted that he may have called her 'babe' and that he may have said that she was in good shape because of the fact that she went to the gym.

The applicant submitted that he was working as delivery driver and had throughout the pandemic continued working. He stated that in all the years he had worked as a delivery driver there had been no complaints against him and that he had a 5-star rating on delivery websites.

The Sub-Committee was mindful that public safety was of paramount importance.

On a balance of probabilities, the Sub-Committee accepted the version of events presented to them by the Licensing Officer of the events of 24th April 2019 and to the subsequent behaviour reported by the Licensing Manager in her interactions with the applicant.

The applicant himself accepted that despite instructions to the contrary he used

his mobile phone whilst undertaking the knowledge test. The applicant also accepted that he had called the Licensing Officer a 'babe' and he had referred to her shape. On a balance of probabilities, the Sub-Committee also found that the applicant had begged the Licensing Officer to pass him and due the fact that he would have had to wait another year to take the test, he did offer to come to an arrangement.

To grant the Licence, the Sub-Committee was required to be satisfied that the applicant was a fit and proper person to hold the Licence.

The Sub-Committee found that the applicant was not a fit and proper person to hold a Hackney Carriage and Private Hire Driver's Licence due to his dishonesty on 24th April 2018, due to his inappropriate behaviour towards the Licensing Officer and Licensing Manager and due to his offer to come to some arrangement.

Based on the information available before the Sub-Committee, each member of the Sub-Committee would not allow a person they care for, regardless of their condition, to travel alone in a vehicle driven by the applicant.

The applicant would be informed that he would have 21 days to appeal the decision to the Magistrates Court.

7. ANY OTHER URGENT BUSINESS

There being no other urgent business, the meeting closed at 10.35am.

Appendix B1

By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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